

## REMARKS

Claims 18-28 remain pending.

### **Rejection of Claim 18**

The examiner rejected independent Claim 18 (among other claims) as being obvious over Wood (US 5,868,619) in view of Slomiany (US 6,159,098) and in view of the newly cited Marks (US 2003/0236116).

In the office action, it is respectfully submitted that the examiner seems to treat each element in Claim 18 in isolation without considering the claim as a whole. The examiner also has not addressed Applicant's arguments in the previous response, which are still applicable even though Marks is newly relied upon. Further, Applicant's attorney finds it difficult to understand the examiner's current analysis for the rejections since the analysis is not clearly explained. For at least these reasons, the final office action is non-responsive to Applicant's previous response and does not progress the prosecution. Therefore, the finality of the office action should be withdrawn. It is unfair that Applicant must address the examiner's remarks, but the examiner does not address each of Applicant's arguments for patentability.

The examiner appears to have an agenda to reject the claims since the rejection does not seem logical. The examiner's arguments appear very convoluted because there is not a good logical argument to be made.

**Woods** teaches a video poker game, where multiple hands are played at the same time. Above each hand is a standard payable telling the player what she would win upon obtaining each of the standard poker hands. The paytables are based on the odds of obtaining each poker hand multiplied by the player's bet for that hand. As the player buys more cards for a hand (cards arranged vertically), the payable increases proportionally. For example, in Wood's Fig. 2C, the player bought one card for the leftmost hand and four cards for the adjacent hand. The hand with four cards shows the payable multiplied by four since the player paid four times as much for the four-card hand as for the one-card hand. Clearly, Wood's independent vertical card hands are unrelated to Applicant's claimed game recited as

follows: “the primary game comprises displaying a plurality of symbols in at least one row and in N columns, where N is at least three, wherein combinations of symbols **across** the N columns determine the at least one jackpot winning outcome and the non-jackpot winning outcomes, and wherein only some of the symbols are jackpot-incrementing symbols.”

Wood’s card hands are not determined by combinations of symbols **across** any columns, in contrast to Claim 18, and the paytables are only applicable to the vertical hands of cards under each payable.

The Wood game is strictly a poker game, not a game “wherein combinations of symbols across the N columns determine the at least one jackpot winning outcome and the non-jackpot winning outcomes.” Additionally, there are no “jackpot-incrementing symbols” in the Wood card games, among other claim elements lacking.

Therefore, Wood is so far removed from Applicant’s game of Claim 18 that there is no logical way that Woods could suggest the elements in Claim 18 when combined with the other prior art.

The newly cited **Marks** teaches a reel-type slot machine where any award for combinations of symbols across a payline is multiplied depending on how many JP symbols also appear on the reels (para. 0078). In contrast to Claim 18, there are no columns associated with a particular jackpot in Marks, and no jackpots associated with a particular column are increment by a JP symbol occurring in that same column.

Regarding the limitation in Claim 18 of “the primary game comprises displaying a plurality of symbols in at least one row and in N columns, where N is at least three, wherein combinations of symbols **across** the N columns determine the at least one jackpot winning outcome and the non-jackpot winning outcomes,” the examiner quoted only a portion of the claim limitation and then combines Wood and Marks as follows:

generating an outcome of a primary game, the primary game generating at least one jackpot winning outcome and non-jackpot winning outcomes, wherein the primary game comprises displaying a plurality of symbols in at least one row and in N columns, where N is at least three, or in other words, generating an outcome of a primary game, the primary game generating jackpot winning

outcomes and non-jackpot winning outcomes (column 3, lines 16-39, column 6, lines 18-39, column 7, lines 52-65 and Fig. 2A-2B, 46 and 48a-e, Wood; it would have been obvious at the time of invention to try an implementation in which the different outcomes (royal flush, straight flush, etc.) are displayed or generated in a primary game in which the outcome (three-of-a-kind or royal flush, etc.) of each sub-hand is a jackpot/award winning outcome and all other outcomes are non-jackpot/award winning outcomes since Marks discloses that JP scatter pay symbols (similar to cards that make up a royal flush, straight flush, etc.) generate percentage progressive jackpot awards in a base game and line pay symbols (similar to other cards that make up hands different from a royal flush, straight flush, etc.) generate pay table awards or non-jackpot awards in a base game, and one of the plural cards or symbols (nine of diamonds, etc.) are displayed in one of the five columns in a row array so as to indicate whether a winning outcome occurs);

It is noted that the examiner did not consider the claim limitation of “wherein combinations of symbols **across** the N columns determine the at least one jackpot winning outcome and the non-jackpot winning outcomes,” which would have more distinguished the claim from Wood’s vertical hands of cards. Besides taking the claim limitation out of context with the rest of Claim 18, the examiner’s analysis does not make sense. Is the examiner’s point that Wood can be modified to grant jackpots for certain hands? Even so, it would not matter to the allowability of Claim 18. There is still no suggestion for both using the Wood paytables above each vertical hand of cards, but somehow determining winning combinations of symbols **across** the columns. If Wood determined a card hand by combining symbols across the columns, the paytables would not be associated with vertical hands of cards.

On page 4 of the office action, the examiner stated that, “However, Wood does not appear to teach incrementing jackpots as claimed.” This is only one of the many claim limitations Wood does not suggest. To show the claim element of incrementing the jackpot by a jackpot-incrementing symbol, the examiner relies on **Slomiany**. The pertinent part of Slomiany is in col. 4, lines 40-42, where it is described that certain symbol combinations increase the value of a single progressive jackpot (displayed in the bank 28 in Fig. 4), which is ultimately won by a player obtaining three “Break the Bank” symbols across a payline (col. 5, line 64, to col. 6, line 3).

In Slomiany, there is only one progressive jackpot 12, and there is no suggestion of increasing jackpots associated with particular columns upon the display of a jackpot-incrementing symbol in that column. Further, it would make no sense for Wood to identify some cards (but not all cards) as jackpot-increasing symbols to increase the payable for each hand. In poker, the payable is defined by the odds of certain hands occurring using a 52 card deck. Further, since Slomiany is a reel-type game forming combinations of symbols across paylines, there is no suggestion of somehow modifying Wood to include a progressive jackpot for each column.

Regarding the combination of Wood, Slomiany, and Marks, the examiner stated:

incrementing a particular one of the N jackpots associated with a particular column when at least one of the jackpot-incrementing symbols is displayed in that particular column, or, incrementing at least one of the jackpots based on, at least in part, the occurrence of at least one of the jackpot-incrementing symbols displayed in the primary game, wherein each jackpot is incremented based on different criteria (column 4, lines 34-48, Slomiany; a progressive jackpot is incremented when a winning outcome is achieved based on symbol groups displayed on reels, and it would have been obvious at the time of invention to try an implementation in which the progressive jackpot is any of the jackpots/awards disclosed in Wood and the symbol group or jackpot-incrementing symbol is any of the plural cards that indicate a winning outcome in Wood since one having ordinary skill in the art would have understood the jackpots/awards in Wood would have been incremented or increased in a manner similar to the progressive jackpots disclosed in Marks, and because the JP scatter pay symbols trigger jackpot progressive awards in Marks in a similar manner as the plural cards in Wood that indicate the winning outcome, wherein the display of a particular card groups results in a winning outcome that provides plural jackpots/awards/payoffs to the player in the same manner as the multiple progressive jackpots awarded in Marks (paragraphs 0078 and 0081-0086, Marks), and wherein the plural jackpots/awards/payoffs achieved in Wood may then be incremented based on a percentage progressive as disclosed by Slomiany and Marks based on the number of units wagered in Wood).

By the above, the examiner **appears** to first say that Wood's paytables can be jackpots and can be incremented by certain cards, similar to Slomiany's outcomes increasing the progressive jackpot (col. 4, lines 40-42). However, this cannot be the case since the Wood's paytables are just standard paytables for poker and cannot be incremented by special cards since the paytables are specifically designed to only relate

to the odds of achieving a hand multiplied by the bet amount. If the examiner's point is that a card, such as the nine of diamonds, would change the payable, that would make no sense with the Wood poker game. Additionally, there can be no card hands determined by combinations of symbols across columns, as also claimed in Claim 18.

Regarding Marks (where JP symbols multiply a base award or can award a progressive award), the examiner stated, "the JP scatter pay symbols trigger jackpot progressive awards in Marks in a similar manner as the plural cards in Wood that indicate the winning outcome, wherein the display of a particular card group results in a winning outcome that provides plural jackpots/awards/payoffs to the player in the same manner as the multiple progressive jackpots awarded in Marks (paragraphs 0078 and 0081-0086, Marks), and wherein the plural jackpots/awards/payoffs achieved in Wood may then be incremented based on a percentage progressive as disclosed by Slomiany and Marks based on the number of units wagered in Wood)."

The examiner appears to be trying to create something out of Wood's cards granting jackpots and Slomiany and Marks suggesting to increment the Woods paytables. The examiner is taking the prior art and the claim language out of context. Even if Wood's paytables were incremented, they would not be incremented by special cards since the paytables are just standard tables calculated by the odds of obtaining each poker hand. And, symbol combinations in Woods are not taken across the vertical columns of cards. Further, Claim 18 specifies that the jackpot winning outcome is determined by combinations of symbols across the columns and that there are jackpot-incrementing symbols that increment the jackpot associated with particular columns. In Slomiany and Marks, there are no symbols that increment a jackpot associated with a particular column when at least one jackpot-incrementing symbol is displayed in that column, as recited in Claim 18.

The examiner went on to state,

Slomiany suggests that a method of operating a device that allows the player to reach a bonus game or condition from a base or primary game based on a selected event or outcome occurring in the primary game in which the player's continued playing generates accumulated winnings in the bonus game or

condition will provide a game that matches the player's greater expectation of winning value in the bonus game or condition (column 1, lines 29-53, Slomiany).

Thus, it would have been obvious to one having ordinary skill in the art at the time the applicant's invention was made to modify Wood in view of the teachings of Slomiany for the purpose of providing the gaming device of Wood having the prospect of winning plural jackpots based on the occurrence of plural winning outcomes that are interchangeable with or upgradeable to the plural jackpot incrementing features disclosed by Slomiany in order to meet the player's expectation of winning greater value in the bonus game or condition by allowing the player to accumulate winnings as game play continues.

Besides the reasoning behind the above quote being extremely difficult to understand, as explained above, even if Wood's paytables were incremented, they would not be incremented by special cards since the paytables are just standard tables calculated by the odds of obtaining each poker hand. And, symbol combinations in Woods are not taken across the vertical columns of cards.

Further regarding combining the prior art with Marks, the examiner stated,

However, Wood alone or in combination with Slomiany does not appear to teach displaying symbols in at least a row and N columns, that combinations of symbols across the columns determine jackpot winning and non-jackpot winning outcomes and that some symbols are jackpot-incrementing symbols as claimed. Therefore, attention is directed to Marks, which teaches

wherein the primary game comprises displaying a plurality of symbols in at least one row and in N columns, where N is at least three (paragraph 0050, Marks: symbols are displayed in a base game symbol matrix of reels having 3 rows and 5 columns),

wherein combinations of symbols across the N columns determine the at least one jackpot winning outcome and the non-jackpot winning outcomes, or in other words, wherein combinations of symbols across the N columns determine the at least one jackpot winning outcome and the non-jackpot winning outcomes (paragraphs 0066-0069 and 0073-0076, Marks: combinations of line pay symbols across the columns of the symbol matrix generate non-jackpot winning outcomes and combinations of JP scatter pay symbols across the columns of the symbol matrix generate jackpot winning outcomes),

and wherein only some of the symbols are jackpot-incrementing symbols, or in other words, and wherein only some of the symbols are jackpot-incrementing symbols (paragraphs 0078 and 0081-0086, Marks; only a certain

number of the JP or jackpot symbols are symbols that pay a jackpot that is a number multiplied by the total bet or that triggers a percentage progressive jackpot award by multiplying a total progressive amount by a percentage progressive value).

Marks suggests that a device that creates additional methods of providing progressive awards or a wider variety of awards under a percentage progressive concept will generate unique slot game products from gaming manufacturers, provide casinos with a greater game selection in order to improve player satisfaction by distinguishing the game options from other casinos and introduce new games with new game awards that retain the players interest in playing slot games (paragraphs 0014-0018, Marks).

Thus, it would have been obvious to a person having ordinary skill in the art at the time the applicant's invention was made to modify Wood in view of the teachings of Slomiany, and further in view of the teachings of Marks for the purpose of upgrading and/or integrating the jackpot and non-jackpot winning outcomes, simultaneous display of jackpots, incrementing jackpots based on jackpot-incrementing symbols and awarding jackpots disclosed by Wood alone or in combination with Slomiany to and/or with the combination of symbols that determine jackpot and non-jackpot winning outcomes and certain symbols that are jackpot-incrementing symbols disclosed by Marks in order to generate unique slot game products from gaming manufacturers, provide casinos with a greater game selection in order to improve player satisfaction by distinguishing the game options from other casinos and introduce new games with new game awards that retain the players interest in playing slot games by creating additional methods of providing progressive awards or a wider variety of awards under a percentage progressive concept.

In the above quote, the examiner points out the Marks describes a reel-type slot machine where winning symbol combinations are taken across columns of symbols. This cannot be combined with Wood to suggest Claim 18 since the key aspect of Wood relied upon by the examiner is Wood's paytables above each vertical hand of cards. If Woods were somehow modified to have winning symbol (card) combinations determined horizontally, the paytables would not be above each card hand, but would be horizontally aligned with the horizontal hand of cards.

Additionally, the examiner is trying to combine Marks' teaching of JP symbols (multiply a base award or award the progressive jackpot), or Slomiany's teaching of certain combinations increase the jackpot) with Wood. However, it makes no sense to provide

special cards in Wood that increment the payable, since the payable is mathematically calculated solely based on the odds of achieving each poker hand multiplied by the bet. The examiner is just combining and modifying the prior art without any suggestion and in ways that are incompatible with Wood.

**The examiner had not addressed similar remarks in Applicant's previous response and the finality of the office action should be withdrawn.**

Accordingly, it is respectfully submitted that Claim 18 and its dependent claims are allowable.

### **Rejection of Claim 21**

Claim 21 was also rejected based on the combination of Wood, Slomiany, and Marks.

Independent Claim 21 is related to Claim 18 but does not expressly associate each of the jackpots with a column. Claim 21 has the additional limitation of awarding a plurality of jackpots where the number of jackpots awarded is not based on the outcome of the game.

Like Claim 18, Claim 21 describes a primary game that is incompatible with Wood's multi-hand game where cards in a hand (or other symbols making a hand) are displayed vertically along with the payable above each hand. The examiner wants to somehow retain Wood's paytables for each hand yet not retain the underlying game of multiple vertical hands. This cannot be done since the paytables and vertical hands go together and cannot be separated from each other.

Slomiany does not disclose "simultaneously displaying a plurality of different jackpots" and does not teach the claim limitation of "wherein the primary game comprises displaying a plurality of symbols in at least one row and in N columns, where N is at least three, wherein combinations of symbols across the N columns determine the at least one jackpot winning outcome and the non-jackpot winning outcomes, and wherein only some of the symbols are jackpot-incrementing symbols." There is only one jackpot 12 in Slomiany that can be increased by the outcome of the reels. If the Wood paytables are considered



jackpots by the examiner, there is no suggestion of incrementing them due to any special cards since the Wood paytables are strictly calculated based on the odds of achieving certain poker hands arranged vertically.

Similarly, the Marks JP symbols could not be used to increment the Wood paytables for the same reasons given above.

Further, Claim 21 recites “wherein a plurality of the jackpots is awarded in a single game if certain conditions are met, and wherein the particular number of jackpots awarded is based on certain conditions other than an outcome of the game.” Even though Slomiany teaches to increment a progressive jackpot 12 when certain symbol combinations are obtained, the combination of Wood and Slomiany could not suggest the limitation of “wherein a plurality of the jackpots is awarded in a single game if certain conditions are met, and wherein the particular number of jackpots awarded is based on certain conditions other than an outcome of the game.” In any combination of Slomiany and Wood, the “number of jackpots awarded” (assuming there are multiple jackpots, which is disputed) is based on the outcome of the game (e.g., a card hand or three Break the Bank symbols). Further, there would be no suggestion of incrementing different jackpots using the jackpot-incrementing symbols, since Wood’s jackpots are predetermined based on the odds of achieving certain hands, and Slomiany only discloses a single jackpot (bank 28) won by a special symbol combination.

Similarly, in Marks, the JP symbols (in combination) either multiply a base award or award the progressive jackpot. In any combination of Marks, Slomiany, and Wood, any progressive award is based on the outcome of the game, and there is just one jackpot that can be incremented (the progressive jackpot). Further, there would be no suggestion of incrementing different jackpots using any jackpot-incrementing symbols, since Wood’s jackpots are predetermined based on the odds of achieving certain hands, and Marks only discloses a single jackpot.

Therefore, it is respectfully submitted that Claim 21 and its dependent claims are allowable for multiple reasons.

Accordingly, it is respectfully submitted that all Claims 18-28 are allowable.

Should the Examiner have any questions, please call the undersigned at (408) 382-0480 x202.

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